

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 07-0309 WHA

Plaintiff,

v.

**ORDER DENYING DEFENDANT'S  
SUCCESSIVE MOTIONS FOR  
RECONSIDERATION**

JOSE JESUS MADRIGAL-DIAZ,

Defendant.

Defendant moves again for reconsideration of the order denying his Section 2255 motion, submitting three filings captioned as follows: (1) letter to the court, (2) motion for reconsideration, correct illegal portion of sentence, and appoint counsel, and (3) motion to correct sentence and release prisoner (Dkt. Nos. 131–33). He argues again that he is entitled to such relief because a 16-point enhancement at sentencing was not warranted based on defendant's 2002 Tulare County conviction. Defendant raised that argument as a part of his Section 2255 motion and it was resolved in the order denying that motion (Dkt. No. 120 at 14–15).

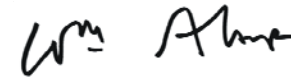
As defendant has not been granted leave to file a motion for reconsideration and as his motion does not otherwise meet the requirements of Civil Local Rule 7-9, applicable here via Criminal Local Rule 2-1, defendant's motion is **DENIED**. And, even if defendant's filings are construed as successive motions attacking his sentence on the merits of the sentencing enhancement — rather than a claim of ineffective assistance of counsel based on a failure to

1 make such argument at sentencing — the motions are denied on that ground as well, because  
2 such enhancement was properly applied.

3 The Clerk shall serve this order on defendant.

4 **IT IS SO ORDERED.**

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6 Dated: August 2, 2011.



7 WILLIAM ALSUP  
8 UNITED STATES DISTRICT JUDGE  
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